

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONICA STORY,

Plaintiff,

v.

XTREME MANUFACTURING, LLC,

Defendants.

Case No. 1:22-cv-00228-ADA-HBK

CASE MANAGEMENT AND  
SCHEDULING ORDER

The Court telephonically conducted a mandatory initial scheduling conference on November 17, 2022. The following counsel appeared on behalf of the respective parties: Attorney Shoham J. Solouki on behalf of Plaintiff and Attorney Anthony J. DeCristoforo on behalf of Defendant. Following a review of the parties' Joint Scheduling Report (Doc. No. 16), the Court enters this Case Management and Scheduling Order (CMSO) pursuant to Fed. R. Civ. P. 16(b). This CMSO, to the greatest extent possible, uses the dates proposed by the parties and/or agreed to by counsel during the conference.

///

///

///

///

///

**I. Deadlines and Dates**

Action or Event	Date
Deadline for providing mandatory initial disclosures. <i>See</i> Fed. R. Civ. P. 26(a)(1). <i>If not already completed.</i>	12/15/22
Deadline to move to join a party or amend pleadings. <i>See</i> Fed. R. Civ. P. 14, 15, 19, 20.	12/15/22
Mid-Discovery Status Conference	Report Due: 04/06/23 Conference: 04/20/23 at 1:00PM
Deadline to complete non-expert discovery. <i>See</i> Fed. R. Civ. P. 37.	06/01/23
Deadline for plaintiff to disclose expert report(s). <i>See</i> Fed. R. Civ. P. 26(a)(2).	07/03/23
Deadline for defendants to disclose expert report(s).	07/03/23
Deadline to disclose any expert rebuttal report(s).	08/02/23
Deadline to complete expert discovery.	09/05/23
Deadline to advise the Court of settlement, ADR, VDRP or mediation efforts to date. <i>See</i> Local Rules 270, 271. <b><i>The parties may contact Chambers prior to this date to arrange a settlement conference.</i></b>	09/05/23
Deadline to file pre-trial dispositive motions. <i>See</i> Fed. R. Civ. P. 56.	10/20/23
Deadline to file final joint pretrial statement, motion(s) <i>in limine</i> , proposed jury instructions, and verdict form. <i>See</i> Local Rules 281, 282.	03/25/24
Date of the final pretrial conference. <i>See</i> Fed. R. Civ. P. 16(e); <i>See</i> Local Rule 280, 281, 282, 283.	04/01/24 at 1:30 PM
Trial Date	06/03/24 at 8:30 AM

**II. Discovery and Mid-Discovery Status Conference**

The parties are bound by the limitations on discovery imposed under the Federal Rules of Civil Procedure and the Court's Local Rules. The Court follows the rule that the completion date means that all discovery must be finished by the deadline set in this CMSO. Litigants—by their

own agreement—may conduct discovery after this formal completion date but the Court is not inclined to consider discovery disputes after the discovery completion date. In fact, motions to compel filed after the discovery deadline are presumptively untimely and may be denied on that basis alone.

The Court will hold a Mid-Discovery Status Conference to address any discovery concerns that may arise during discovery without the need to file a formal motion. The parties shall file a Joint Mid-Discovery Status Report, not to exceed five (5) pages in length, which shall outline the status of the case, any additional discovery still planned, potential for settlement, and any other issues that might benefit from the Court’s assistance/direction.

The parties shall file the Joint Report as set forth above, and email a copy, in Word format, to [hbkorders@caed.uscourts.gov](mailto:hbkorders@caed.uscourts.gov). Parties may appear telephonically on the above-scheduled date at 1:00 p.m. by dialing: 1-888-204-5984 and entering Access Code 4446176. Alternatively, if there are no discovery issues and the parties do not otherwise need the Court’s assistance at this stage, the parties may move to vacate the Mid-Discovery Status Conference by filing a joint motion no later than one-week before the scheduled Conference. Vacating the Mid-Discovery Status Conference does not relieve the parties of the requirement of filing a Joint Mid-Discovery Report.

#### Filing Motions, Deadlines and Hearings

Unless prior leave of the Court is obtained, all moving and opposition briefs or legal memoranda in civil cases before Judge Barch-Kuchta shall not exceed twenty-five (25) pages. Reply briefs by the moving party shall not exceed ten (10) pages. These page limitations do not include exhibits or declarations. Briefs exceeding this page limitation without leave of Court may be stricken or not considered. Counsel may choose to appear telephonically to argue non-dispositive motions before Magistrate Judge Barch-Kuchta, provided they indicate their intent to appear telephonically on their pleadings at least one week before the hearing. The Court’s teleconference line is 1-888-204-5984; Access Code 4446176.

Local Rule 230(b) governs the deadlines for a party to file a response and/or a reply to a motion. As a rule, the Court will consider motions based on a review of the papers without oral

1 argument under Local Rule 230(g). If the Court decides a hearing is necessary following review  
2 of the record and briefs on file, the Court will set a hearing.

3 Informal Discovery Conference Prior to Filing Motion to Compel

4 Prior to filing a discovery motion under Fed. R. Civ. P. 37, a party must receive  
5 permission from the Court, which the Court will grant following an informal discovery  
6 conference. An informal discovery conference is separate and apart from the Mid-Discovery  
7 Conference above.

8 Please refer to Judge Barch-Kuchta's "Case Management Procedures" included under the  
9 "Civil Procedures" tab on this Court's webpage.<sup>1</sup> A party requesting an informal discovery  
10 conference should contact Chambers for available dates. The Court will schedule the conference  
11 as soon as possible, taking into consideration the urgency of the issue. Before contacting the  
12 Court, the parties must meet and confer by speaking in person, over the telephone, or via video  
13 conference in attempt to resolve the dispute.

14 At least 24-hours before the conference, each party shall simultaneously submit a letter  
15 brief, outlining their position regarding the dispute. The letter briefs shall be no longer than three  
16 (3) pages in length. Letter briefs should not be filed but shall be emailed to Chambers at  
17 [hbkorders@edca.uscourts.gov](mailto:hbkorders@edca.uscourts.gov).

18 Motions to Compel

19 After taking part in the informal discovery conference, the parties must conduct at least  
20 one more **telephonic or video** call as part of their obligations to meet and confer in good faith to  
21 resolve their discovery dispute prior to seeking judicial intervention. If a party files a motion to  
22 compel under Fed. R. Civ. P. 37, the parties must prepare and file a Joint Statement Regarding  
23 Discovery Disagreement in compliance with Local Rule 251. Failure to follow Local Rule 251  
24 will result in the Court denying the motion without prejudice and dropping the motion from  
25 calendar. In addition to filing a Joint Statement electronically, a copy of the Joint Statement, in  
26 Word format, shall also emailed to Chambers at [hbkorders@caed.uscourts.gov](mailto:hbkorders@caed.uscourts.gov).

27 \_\_\_\_\_  
28 <sup>1</sup> Available at <http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/502311/>.

1           **III. Mandatory Settlement Conference** (Local Rule 270)

2           By the above date, the parties shall submit a Joint Settlement Statement indicating  
3 whether they have engaged in settlement discussions or mediation and/or whether they request the  
4 Court to set a settlement conference. If so, a settlement conference will be set by separate order.  
5 The parties are advised that unless otherwise permitted in advance by the Court, the attorneys  
6 who will try the case shall appear at the settlement conference with the parties and the person or  
7 persons having full authority to negotiate and settle the case, on any terms, at the conference.  
8 *The parties may contact Chambers any time prior to this date if they wish to schedule a*  
9 *settlement conference or participate in the VDRP program set forth in Local Rule 271.*

10           **IV. Dispositive Pre-Trial Motions**

11           All dispositive pre-trial motions shall be filed **no later than October 20, 2023** and will be  
12 heard pursuant to the Local Rules in Courtroom 1 before United States District Judge Ana de  
13 Alba. In scheduling such motions, counsel shall comply with Fed. R. Civ. P 56 and Local Rules  
14 230 and 260. Prior to filing a motion for summary judgment or motion for summary  
15 adjudication, the parties are ORDERED to meet, in person or by telephone, and confer to discuss  
16 the issues to be raised in the motion. The purpose of the meeting shall be to: 1) avoid filing  
17 motions for summary judgment where a question of fact exists; 2) determine whether the  
18 respondent agrees that the motion has merit in whole or in part; 3) discuss whether issues can be  
19 resolved without the necessity of briefing; 4) narrow the issues for review by the court; 5) explore  
20 the possibility of settlement before the parties incur the expense of briefing a summary judgment  
21 motion; and 6) to arrive at a Joint Statement of Undisputed Facts. The moving party shall initiate  
22 the meeting and provide a draft of the Joint Statement of Undisputed Facts. In addition to the  
23 requirements of Local Rule 260, the moving party shall file a Joint Statement of Undisputed  
24 Facts. In the Notice of Motion, the moving party shall certify that the parties have met and  
25 conferred as ordered above or set forth a statement of good cause for the failure to meet and  
26 confer.

27           **V. Pre-Trial Conference Date**

28           The Pre-Trial conference is set for **April 1, 2024 at 1:00PM in Courtroom 1** before

United States District Judge Ana de Alba. The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2)**. The parties are further directed to submit a digital copy of their Pretrial Statement in Word format, directly to Judge de Alba's chambers by email at [ada.orders@caed.uscourts.gov](mailto:ada.orders@caed.uscourts.gov). Counsels' attention is directed to **Rules 281 and 282 of the Local Rules** for the Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference. The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the Local Rules, the Joint Pretrial Statement shall include a Joint Statement of the Case to be used by the Court to explain the nature of the case to the jury during voir dire.

**VI. Trial Date**

Trial is set for **June 3, 2023 at 8:30 AM in Courtroom 1** before District Judge Ana de Alba.

A. This is a JURY trial.


B. Counsels' Estimate of Trial Time: 5-7 Days.

C. Counsels' attention is directed to Local Rule 285 for the Eastern District of

**VII. Effect of This Order**

This CMSO represents the best estimate of the Court and parties as to the schedule most suitable for this case. The dates set in this CMSO are firm and will not be modified absent a showing of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations, and where appropriate, attached exhibits, which establish good cause for granting the relief requested. The failure to comply with this Order may result in the imposition of sanctions.

Dated: November 23, 2022

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE